

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION  
[www.flnb.uscourts.gov](http://www.flnb.uscourts.gov)

In re:

CAMPBELLTON-GRACEVILLE HOSPITAL  
CORPORATION,

Case No. 17-40185-KKS

Chapter 11

Debtor.

/

**LIQUIDATING TRUSTEE'S RENEWED EXPEDITED  
MOTION FOR ENTRY OF FINAL JUDGMENT  
AGAINST EMPOWER H.I.S., LLC AND JORGE A. PEREZ  
AND INCORPORATED MEMORANDUM OF LAW<sup>1</sup>  
(*Expedited Hearing Requested*)<sup>2</sup>**

The Liquidating Trustee, Marshall Glade (“**Liquidating Trustee**”), by and through his undersigned counsel, files this renewed motion (the “**Motion**”) for the

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<sup>1</sup> On July 12, 2019, the Liquidating Trustee filed his *Expedited Motion for Entry of Default Final Judgment Against Empower H.I.S., LLC and Jorge Perez* (Doc. No. 1053) (the “**Initial Default Motion**”). On July 12, 2019, the Court entered its *Order Requesting Additional Briefing on Expedited Motion for Entry of Default Final Judgment Against Empower H.I.S., LLC and Jorge Perez* (Doc. No. 1057), and in response, on July 16, 2019, the Liquidating Trustee filed his *Memorandum of Law in Support* (Doc. No. 1067). In hopes of Empower and Perez making their initial \$100,000 payment under the Mediation Agreement due by August 17, 2019, on July 17, 2019, in advance of the hearing, the Liquidating Trustee withdrew the Initial Default Motion. See Doc. No. 1069. Empower and Perez have failed to pay the initial amount due, and the events of default described in the Initial Default Motion remain unresolved, and as a result the Liquidating Trustee files this renewed motion.

<sup>2</sup> By virtue of recent published accounts, the Liquidating Trustee is aware of efforts being made by the authorities to hold those individuals related to the Lab Fraud Program accountable. That combined with Empower and Perez’s complete disregard for their obligations under the Court-approved Mediation Agreement causes the Liquidating Trustee to believe that it would be in the Trust’s beneficiaries’ best interests to have this motion heard upon fourteen (14) days’ notice.

entry of a final judgment against Empower H.I.S., LLC (“**Empower**”) and Jorge A. Perez (“**Perez**”) for their willful and deliberate failure to comply with their obligations under the Court-approved mediation settlement agreement (Doc. No. 948, Ex. A, the “**Mediation Agreement**,” approved by Court Order, Doc. No. 1007, the “**Order Approving Mediation Agreement**”). In support, the Liquidating Trustee submits the affidavits attached as Exhibits “A” and “B”, his below verification, and his below incorporated memorandum of law, and states:

### **Background**

1. On May 5, 2017, Campbellton Graceville Hospital Corporation (the “**Debtor**”) filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.
2. On two consecutive days beginning on May 2, 2018, the Debtor, the Official Committee of Unsecured Creditors (the “**Committee**”), Empower, and Perez participated in a mediation session in Orlando, Florida with respect to the Debtor and Committee’s Claims against Perez and Empower.
3. On May 3, 2018, the parties agreed to resolve their disputes at Mediation and executed a term sheet. Thereafter, on October 29, 2018, the Parties executed the Mediation Agreement, a true and correct copy of which is attached as Exhibit “C,” which the Court approved on April 19, 2019, directing the parties to

comply with the terms of the Mediation Agreement, and reserving jurisdiction to enforce its terms and conditions. *See Doc. No. 1007.*

4. On November 5, 2018, the Court entered an Order (Doc. No. 882) confirming the Debtor and the Committee's joint plan of liquidation (Doc. No. 812) (the “**Plan**”), which established the Campbellton-Graceville Hospital Liquidating Trust (the “**Trust**”) of which Marshall Glade is the Liquidating Trustee and which is governed by the Liquidating Trust Agreement (Doc. No. 914). Pursuant to the Plan and the Liquidating Trust Agreement, all property of the estate transferred to the Trust, the Liquidating Trustee succeeded to the rights of the Debtor, and the Liquidating Trustee was empowered to exercise all powers vested in the Debtors and the Trust pursuant to the Plan or as necessary and proper to carry out the provisions of the Plan. *See Plan, Sec. 5.1, 5.9, and 5.13 and Liquidating Trust Agreement, Sec. 3.02, 3.05, and 4.01.*

5. Empower and Perez have materially defaulted under the terms of the Mediation Agreement.

**Perez and Empower Have Defaulted by Failing to Provide a Sworn Statement and to Turn Over Empower Software**

6. Pursuant to the Cooperation and Assistance provision of the Mediation Agreement, Jorge Perez was required to “meet with the Debtor and Committee, upon reasonable notice of said meeting at a time and place convenient for all attending parties, and provide a sworn statement [the “**Sworn Statement**”] to questions

raised...regarding his and Empower's participation in and the operation of the Lab Program [as defined in the Mediation Agreement]..." *Mediation Agreement, Sec. 2.J.* Further, Empower was required to "at no charge, turn over all software used at the Debtor's facility (the "**Empower Software**") within their possession or control will [sic] and use their commercially reasonably efforts to assist the Debtor and committee in accessing and reviewing the Empower Software..." *Id.*

7. On May 13, 2019, the Liquidating Trust sent Empower and Perez correspondence via Federal Express and U.S. Mail setting May 21, 2019 at the offices of Nelson Mullins in Miami, Florida as the date and place to take the Sworn Statement. The correspondence provided "if this date is inconvenient for you, please let us know upon your receipt of this letter and provide three alternative dates within the two-week period commencing on May 20, 2019 for the taking of your Sworn Statement." Additionally, the correspondence stated: "Please keep in mind that unless we hear from you, counsel for the Liquidating Trustee will be flying in [from Tallahassee] and a court reporter will be retained for your Sworn Statement on May 21, 2019." A true and correct copy of this May 13, 2019 correspondence is attached as Exhibit "1" to the affidavit attached hereto as Exhibit A.

8. Perez failed to appear for the Sworn Statement on May 21, 2019, and further failed to respond or attempt to reschedule the date of the Sworn Statement. *See Exhibit "D," Certificate of Non-Appearance.*

9. In addition, Empower has failed and refused to turn over the Empower Software.

**Perez and Empower Have Defaulted by  
Failing to Submit to Forensic Analysis**

10. Pursuant to the Forensic Disclosure provision of the Mediation Agreement, the parties selected Morrison, Brown, Argiz & Farra, LLC, Certified Public Accountants and Advisors (“**MBAF**”) to perform a forensic analysis on Empower and Perez’s financials, as further described in the Mediation Agreement. Empower and Perez agreed to “fully cooperate with the Debtor and Committee’s designated Forensic Accountant and provide” certain documents listed in the Mediation Agreement and reasonable requests of MBAF (the “**Forensic Analysis**”).

*Mediation Agreement, Sec. 2.B.*

11. On or about May 30, 2019, the Liquidating Trustee engaged the services of MBAF, as a consultant, to perform the forensic analysis of Empower and Perez’s financials, as provided in the Mediation Agreement.

12. On June 11, 2019, Marta Alfonso, a principal at MBAF, sent correspondence via Federal Express to Empower and Perez requesting production of the documents necessary to perform the required forensic analysis and as required under the Mediation Agreement (the “**Document Request**”). A true and correct copy of the Document request is attached as Exhibit A to the affidavit attached hereto as Exhibit B. The Document Request requested Empower to timely provide this

information by no later than June 22, 2019. The Document Request included an address, email address, and phone number to reach Ms. Alfonso. However, Empower and Perez failed to produce any documents before the deadline or correspond with Ms. Alfonso regarding the Document Request or the Forensic Analysis.

13. On June 25, 2019, The Liquidating Trustee served a Notice of Default on Empower and Perez regarding their failure to comply with Section 2(B) of the Mediation Agreement, a copy of which is attached hereto as **Exhibit “E.”**

**Perez and Empower Have Defaulted by  
Failing to Make the Initial Settlement Payment**

14. Pursuant to Section 2.A. of the Mediation Agreement, Empower and Perez were required to pay \$100,00.00 (the “**Initial Settlement Payment**”) to the Liquidating Trustee within 120 days of the Effective Date.

15. The Effective Date was April 19, 2019—the date the Court entered the Order Approving Mediation Agreement—and accordingly, the Initial Settlement Payment was due on August 17, 2019.

16. Empower and Perez failed to make the Initial Settlement Payment by August 17, 2019, or at any time prior to the filing of this Motion. The second settlement payment of \$50,000.00 is due by October 16, 2019, and by all indications, Empower and Perez will default on their obligation to make this payment.

17. On August 19, 2019, as a result of the monetary default, the Liquidating Trustee served Empower and Perez with a Notice of Default pursuant to Section 2(A)(iv) of the Mediation Agreement, a true and correct copy of which is attached as **Exhibit “F.”**

18. Empower and Perez have failed to cure their monetary default under the Mediation Agreement. Under the Mediation Agreement, the Liquidating Trustee has the option of terminating the Mediation Agreement. *See* Mediation Agreement, Section 2(A)(iv)(1). However, as explained below, the Liquidating Trustee is opting for his entitlement to the entry of a final judgment against Empower and Perez in the amount of \$5,00,000.00, while reserving all rights to assert claims for restitution as set forth below.

**Liquidating Trustee is Entitled to a Default Final Judgment**

19. As of the filing of this Motion, Perez and Empower have failed to communicate with the Liquidating Trustee with respect to their defaults and obligations under the Mediation Agreement.

20. The Mediation Agreement provides that:

In the event the Forensic Accountant, Liquidating Trustee, Committee or Debtor finds an undisclosed asset exceeding \$250,000 in value, undisclosed transfer outside the ordinary course of business (as determined by the Forensic Accountant) exceeding \$250,000.00 or there is an undisclosed combined aggregate net worth of the Empower Entities [defined as Empower and Perez] in excess of \$1,000,000.00, then within thirty (30) days of being informed of such discovery, the Empower Entities have the following options:

- a. Transfer to the Debtor or liquidating Trustee the value of the additional asset(s), transfer(s), or the value of the amount of the aggregate combined net worth of the Empower Entities exceeding \$1,000,000.00; or
- b. Agree to the entry of a judgment against the Empower Entities in favor of the Debtor or the Liquidating Trustee, as applicable, in the amount of \$5,000,000.00 minus any Settlement Funds paid.

Mediation Agreement, Sec. 2.B.iii.1 (a “**Forensic Default**”).

21. The Liquidating Trustee asserts that Empower and Perez’s failure to cooperate in the Sworn Statement, turn over the Empower Software, cooperate with the Liquidating Trustee, respond to the Document Request, submit to the Forensic Analysis, and make the Initial Settlement Payment was in bad faith contravention of their obligations under the Mediation Agreement. Further, the Liquidating Trustee submits that these failures, in particular Empower and Perez’s failure to participate in the Forensic Analysis, creates an adverse inference that Empower and Perez would exceed the specified value thresholds, thereby constituting a Forensic Default.

22. Moreover, the Liquidating Trustee asserts that Empower and Perez have lost the option to transfer the value of any additional assets set forth in Section B.iii.1 of the Mediation Agreement because they decisively failed to cooperate with the Liquidating Trustee and submit to the Forensic Analysis as required under the Mediation Agreement.

23. Accordingly, the Liquidating Trustee requests that the Court determine that a Forensic Default has occurred and that the Liquidating Trustee is entitled to default final judgment against Empower and Perez, jointly and severally, in the amount of \$5,000,000.00, as provided for in Section 2.B.iii. of the Mediation Agreement.

**Entitlement to and Reservation to Assert Restitution Claims**

24. As a result of Empower's and Perez's conduct as set forth above, the Liquidating Trustee is entitled to assert claims for restitution in excess of \$5,000,000.00 to the full extent of the Liquidating Trustee's damages against Empower and Perez in the event of any forfeiture proceedings should any criminal restitution orders be entered against Empower or Perez (the "**Restitution Claims**"). The Liquidating Trustee expressly seeks a reservation of the right to assert such Restitution Claims and requests that the Court determine the Liquidating Trustee's entitlement to assert them against Empower and Perez.

**MEMORANDUM OF LAW**

Empower and Perez have flouted their obligations under the Mediation Agreement. In bad faith, they have willfully and deliberately failed to comply with the terms of the Mediation Agreement in several material respects: (1) by failing to cooperate in the Sworn Statement, (2) by failing to turn over the Empower Software, (3) by failing to cooperate with the Liquidating Trustee, respond to the Document

Request, and submit to the Forensic Analysis, and (4) by failing to make the Initial Settlement Payment. By failing to submit to the Forensic Analysis, they have hid their financial condition from the Liquidating Trustee and prevented him from finding out whether additional amounts are due and owing under the Mediation Agreement (which if not paid would result in a \$5,000,000.00 judgment). As a result of these flagrant violations of the Mediation Agreement, the Liquidating Trustee is entitled to a default final judgment against Empower and Perez, jointly and severally, in the amount of \$5,000,000.00.

At its core, the Mediation Agreement is a simple contract that set forth the terms upon which the Liquidating Trust agreed to settle its claims against Empower and Perez. Since the Mediation Agreement was executed, Empower and Perez have failed to comply with each and every term as they became due. Empower and Perez—by failing to attend the Sworn Statement, turn over the Empower Software, cooperate with the Liquidating Trustee, turn over the Requested Documents, participate in the Forensic Analysis, and make the Initial Settlement Payment—breached the contract.

At mediation, Empower and Perez asserted that they did not own any asset exceeding \$250,000.00 in value and that their combined aggregate net worth would not be more than \$1,000,000.00. To demonstrate their contention and convince that Liquidating Trust to accept a significantly reduced settlement amount, Empower and

Perez agreed to undergo the Forensic Analysis of their assets and provide a forensic accountant with certain identified documents to determine their net worth.

Empower and Perez's breach of the Mediation Agreement by deliberately failing to provide the required sworn statement, produce the Requested Documents, and participate in the Forensic Analysis permits the Court to draw the adverse inference that they would exceed the specified net value thresholds that would constitute a Forensic Default under the Mediation Agreement. *In re Santaella*, 298 B.R. 793, 809 (Bankr. S.D. Fla. 2002) (citing to *Jones v. Otis Elevator Co.*, 861 F.2d 655, 658-59, (11<sup>th</sup> Cir. 1988)(if a party has it peculiarly within his power to produce witnesses whose testimony would elucidate [a] transaction, the fact that he does not do it creates the presumption that the testimony if produced, would be unfavorable); *See also* 3 Fed. Jury Prac. & Instr. § 104:26 (6th ed.), 3 Fed. Jury Prac. & Instr. § 104:26 (6th ed.) (If a party fails to produce evidence under that party's control and reasonably available to that party and not reasonably available to the adverse party, then [the court] may infer that the evidence is unfavorable to the party would have produced it and did not).

Empower and Perez had possession of the Requested Documents, as they agreed and negotiated to provide them as a condition of the Mediation Agreement. Their failure to cooperate and provide the agreed upon documentation is a telling omission, creating the presumption that had Empower and Perez had the documents reflecting a compliant net worth, they would have simply provided them. See *Evans*

*v. Robbins*, 897 F.2d 966, 970, 22 Collier Bankr. Cas. 2d (MB) 1140 (8th Cir. 1990) (“[I]n certain circumstances, a negative inference arises from a defendant's failure to produce documents shown to have been in his possession. The inference is that the documents would have been damaging to the defendant.”) (citations omitted); *See also Bashir v. Amtrak*, 119 F.3d 929, 931 (11<sup>th</sup> Cir. 1997) (“In this circuit an adverse inference is drawn from a party's failure to preserve evidence only when the absence of that evidence is predicated on bad faith”).

Thus, the Court may find that Empower and Perez's intentional breach of the Mediation Agreement was in bad faith and that their failure to participate in the negotiated forensic analysis should permit the Court to draw negative inference against them and determine that the unproduced documents would evidence net worth greater than \$1,000,000.00. Further, as a result of their conduct, the Court may determine that Empower and Perez have lost the option under the Mediation Agreement to transfer the value of any additional assets identified in the forensic audit above the specified threshold as a result of their failure to submit to it.

To put it differently, based upon the application of the adverse inference, Empower and Perez would have been over the net worth threshold, thereby, (1) requiring them to pay to the Liquidating Trustee the overage, or (2) entitling the Liquidating Trustee to a \$5 million judgment. Because on their failure to comply with their obligations with respect to the forensic audit whereby the overage could

have been quantified, the Mediation Agreement provides for the entry of the \$5,000,000.00 final judgment. Moreover, as a result of their conduct, the Liquidating Trustee asserts an entitlement to the Restitution Claims.

**WHEREFORE**, the Liquidating Trustee seeks the entry of an Order (in the form attached as Exhibit “G”) granting this Motion; entering a default final judgment against Empower and Perez, jointly and severally, in the amount of \$5,000,000.00, plus interest at the applicable federal statutory rate (in the form attached as Exhibit H); determining that the Liquidating Trustee has reserved and is entitled to assert the Restitution Claims; and for such other relief as is just and proper.

Dated: October 1, 2019

BERGER SINGERMAN LLP  
*Co-Counsel for Liquidating Trustee*  
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By: /s/ Brian G. Rich

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By: /s/ Gary Freedman

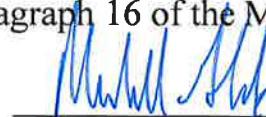
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**VERIFICATION OF LIQUIDATING TRUSTEE**

I verify under penalty of perjury under the laws of the United States of America that the facts set forth in paragraph 16 of the Motion are true and correct.

Executed on

9/25/19



Marshall Glade, solely in my capacity as Liquidating Trustee of the Campbellton-Graceville Hospital Liquidating Trust

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the 1<sup>st</sup> day of October, 2019, by (i) electronic transmission through the Court's CM/ECF system upon all parties registered to receive service in this case; and (ii) in the manner specified upon all parties listed below on the manual notice list.

By: /s/ Gary M. Freedman  
Gary M. Freedman

**Electronic Mail Notice List**

- Yussuf Abdel-aleem john.wisiackas@aleemlaw.com
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**Manual Notice List**

**By Regular First Class U.S. Mail,  
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requested, and Overnight Delivery**

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Miami Florida 33173

Jorge Perez  
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**By Email**

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Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

**EXHIBIT “A”**

EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION  
www.flnb.uscourts.gov

IN RE:

Case No. 17-40185-KKS

CAMPBELLTON-GRACEVILLE HOSPITAL  
CORPORATION,

Chapter 11

Debtor.

/

**AFFIDAVIT OF COUNSEL IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT  
FINAL JUDGMENT AGAINST EMPOWER H.I.S., LLC AND JORGE A. PEREZ.**

STATE OF FLORIDA                         )  
  )  
COUNTY OF MIAMI-DADE                     )

Gary M. Freedman, being duly sworn by me, the undersigned authority, a Notary Public  
within and for aforesaid county and state, deposes and states:

1. My name is Gary M. Freedman and I am an attorney admitted to practice in the  
State of Florida. I am a partner with the law firm of Nelson Mullins Broad and Cassel and represent  
the Liquidating Trustee, on behalf of the Campbellton Graceville Hospital Liquidating Trust (the  
"Trustee") in the above-captioned proceeding. I am familiar with the matters set forth herein and  
submit this Affidavit in support of *Trustee's Motion for Default Final Judgment Against Empower*  
*H.I.S. LLC and Jorge A. Perez* (the "Motion").<sup>1</sup>

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<sup>1</sup> Unless otherwise defined in this Affidavit, all terms will have the same meaning as ascribed to them in the Motion.

2. On May 13, 2019, I sent, on behalf of the Liquidating Trust, correspondence to Empower and Perez via Fedex and U.S. Mail setting the date of the Sworn Statement on May 21, 2019 as required pursuant to the Mediation Agreement (the "Sworn Statement Request"). A copy of the Sworn Statement Request is attached as Exhibit "1."

3. On May 21, 2019, I was at the Offices of Nelson Mullins Broad and Cassel located at 2 South Biscayne Boulevard, 21<sup>st</sup> Floor Miami, Florida 33131, prepared to take the Sworn Statement of Jorge Perez pursuant to the Sworn Statement Request.

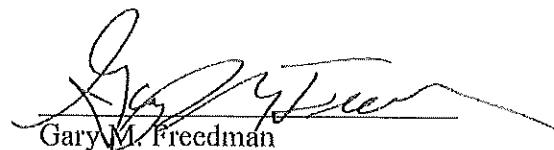
4. Neither Jorge Perez nor Empower appeared on that day for the Sworn Statement.  
5. Neither Jorge Perez nor Empower ever contacted me in respect of the Sworn Statement Request.

5. Copies of the Certificate of Non-Appearance are attached as Exhibit "D" to the Motion for Entry of Default Final Judgment Against Empower H.I.S., LLC and Jorge A. Perez.

6. Empower never provided any software used at the Debtor's facility as required by the Mediation Agreement.

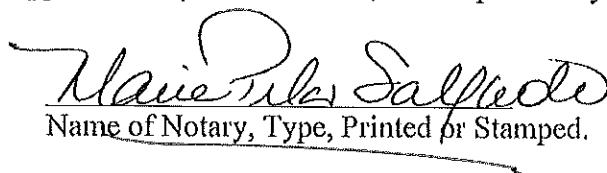
7. Perez and Empower have failed to comply with the terms of the Mediation Agreement.

Further Affiant Sayeth Naught

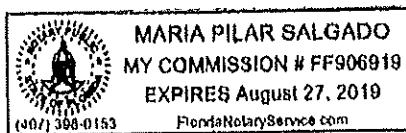


Gary M. Freedman

Before Me, the undersigned authority, personally appeared Gary M. Freedman, who is personally known to me, and who did take an oath.



Maria Pilar Salgado  
Name of Notary, Type, Printed or Stamped.



 NELSON MULLINS  
BROAD AND CASSEL

Gary M. Freedman  
Direct Line: 305.373.9449  
[Gary.Freedman@nelsonmullins.com](mailto:Gary.Freedman@nelsonmullins.com)

ATTORNEYS AND COUNSELORS AT LAW

One Biscayne Tower  
2 South Biscayne Blvd. | 21st Floor  
Miami, FL 33131  
T: 305.373.9400 F: 305.373.9443

[nelsonmullins.com](http://nelsonmullins.com)

\* In Florida known as Nelson Mullins Broad and Cassel

May 13, 2019

VIA FEDEX AND U.S. MAIL

Jorge Perez  
Empower H.I.S., LLC  
8770 SW 72nd Street  
No. 459  
Miami, FL 33173

Registered Agent  
Empower H.I.S., LLC  
8724 SW 72<sup>nd</sup> Street  
# 459  
Miami, FL 33173

Re: Mediation Settlement Agreement Between (I) the Debtor, Campbellton Graceville Hospital Corporation; (II) The Official Committee of Unsecured Creditors; and (III) Empower H.I.S., LLC and George Perez (the "Settlement Agreement")

Dear Mr. Perez:

Pursuant to Section J of the Settlement Agreement, you agreed to "meet with the Debtor and Committee, upon reasonable notice of said meeting and a time and place convenient for all of the attending parties, and provide a sworn statement to questions raised by the Debtor and Committee regarding [your] and Empower's participation in an operation of the Lab Program which would be considered the Debtor, Committee and Liquidating Trust's work product and subject to any discovery privilege related thereto" (the "Sworn Statement"). Accordingly, we would like to meet with you at our offices at 2 South Biscayne Boulevard, Floor 21, Miami, FL 33031, at 12:00 PM on May 21, 2019 to take your Sworn Statement. If this date is inconvenient for you, please let us know upon your receipt of this letter and provide three alternative dates within the two-week period commencing on May 20, 2019 for the taking of your Sworn Statement. Please keep in mind that unless we hear from you, counsel for the Liquidating Trustee will be flying in and a court reporter will be retained for your Sworn Statement on May 21, 2019.

Jorge Perez  
Registered Agent  
May 13, 2019  
Page 2

In addition, pursuant to Paragraph J of the Settlement Agreement, "the Empower Entities, at no charge, shall turn over all software used at the Debtor's facility ("Empower Software") within their possession or control [and] will [ ] use their commercially reasonable efforts to assist the Debtor and the Committee in accessing and reviewing the Empower Software with the assistance of the Debtor and Committee's IT representatives, on site as appropriate and if necessary." Accordingly, please immediately provide a date and time when we may access the Empower Software.

We look forward to hearing from you.

Very truly yours

NELSON MULLINS BROAD AND CASSEL



Gary M. Freedman

GMF:do

Cc: Marshall Glade  
Brian Rich  
Frank Terzo  
Mike Niles



FOLD on this line and place in shipping pouch with bar code and delivery address visible

1. Fold the first printed page in half and use as the shipping label.
2. Place the label in a waybill pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.
3. Keep the second page as a receipt for your records. The receipt contains the terms and conditions of shipping and information useful for tracking your package.

#### Legal Terms and Conditions

Tendering packages by using this system constitutes your agreement to the service conditions for the transportation of your shipments as found in the applicable FedEx Service Guide, available upon request. FedEx will not be responsible for any claim in excess of the applicable declared value, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the applicable FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of 100 USD or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is 500 USD, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see applicable FedEx Service Guide. FedEx will not be liable for loss or damage to prohibited items in any event or for your acts or omissions, including, without limitation, improper or insufficient packaging, securing, marking or addressing, or the acts or omissions of the recipient or anyone else with an interest in the package. See the applicable FedEx Service Guide for complete terms and conditions. To obtain information regarding how to file a claim or to obtain a Service Guide, please call 1-800-GO-FEDEX (1-800-463-3339).

Daura Ospina

**From:** TrackingUpdates@fedex.com  
**Sent:** Tuesday, May 14, 2019 11:09 AM  
**To:** Daura Ospina  
**Subject:** FedEx Shipment 787225728458 Delivered

◀External Email▶ - From: prvs=903740e600=bounce@nds.fedex.com

## Your package has been delivered

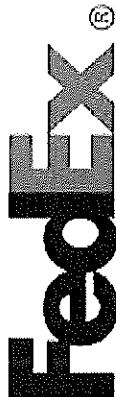
Tracking # 787225728458

Ship date:  
Mon, 5/13/2019

Gary Freedman  
Nelson Mullins and Broad and  
Cassel  
Miami, FL 33131  
US



Delivery date:  
Tue, 5/14/2019 11:06  
am  
Jorge Perez  
Empower H.I.S., LLC  
8770 SW 72ND ST  
MIAMI, FL 33173  
US



### Personalized Message

PSShip eMail Notification

### Shipment Facts

Our records indicate that the following package has been delivered.

Tracking number:	<u>787225728458</u>
Status:	Delivered: 05/14/2019 11:06 AM Signed for By: Signature Release on file
Reference:	058315.01500-gfreedman-
Signed for by:	Signature Release on file
Delivery location:	MIAMI, FL
Service type:	FedEx Standard Overnight®
Packaging type:	FedEx® Envelope
Number of pieces:	1
Weight:	0.50 lb.
Special handling/Services:	No Signature Required Deliver Weekday

**Standard transit:** 5/14/2019 by 3:00 pm

**This tracking update has been requested by:**

**Company name:** Nelson Mullins and Broad and Cassel

**Name:** Gary Freedman

**Email:** gary.freedman@nelsonmullins.com

Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 10:08 AM CDT on 05/14/2019.

All weights are estimated.

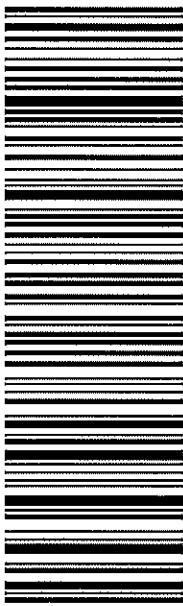
To track the latest status of your shipment, click on the tracking number above.

This tracking update has been sent to you by FedEx on behalf of the Requestor gary.freedman@nelsonmullins.com. FedEx does not validate the authenticity of the requestor and does not validate, guarantee or warrant the authenticity of the request, the requestor's message, or the accuracy of this tracking update.

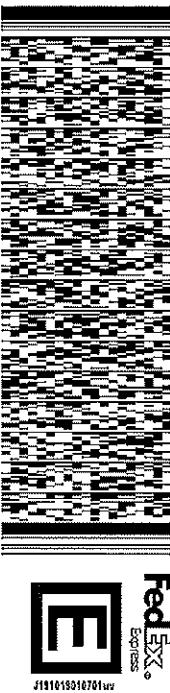
Standard transit is the date and time the package is scheduled to be delivered by, based on the selected service, destination and ship date. Limitations and exceptions may apply. Please see the FedEx Service Guide for terms and conditions of service, including the FedEx Money-Back Guarantee, or contact your FedEx Customer Support representative.

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Thank you for your business.



3C ATUA

FL-US  
MIA  
33173TRK# 0201 7872 2586 9370  
INV. 305 373-9472  
PO:TUE - 14 MAY 3:00P  
STANDARD OVERNIGHTREL#  
3765346(305) 373-9400  
PO:  
DEPT:

REF: 058315 01500-GFREEDMAN

MIAMI FL 33173  
TO REGISTERED AGENT  
EMPOWER HIS, LLC  
8724 SW 72ND STORIGIN: DALLAS (305) 373-9400  
GARY FREEDMAN  
NELSON MULLINS AND BROAD AND CASSEL  
2 SOUTH BISCAYNE BLVD.  
21ST FLOOR  
MIAMI, FL 33131  
UNITED STATES, USSHIP DATE: 13 MAY '19  
ACT WGT: 0.50 LB  
CAD: 113822759/MSX3220

BILL SENDER

565J1/D6C/C23AD

FOLD on this line and place in shipping pouch with bar code and delivery address visible

1. Fold the first printed page in half and use as the shipping label.
2. Place the label in a waybill pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.
3. Keep the second page as a receipt for your records. The receipt contains the terms and conditions of shipping and information useful for tracking your package.

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Tendering packages by using this system constitutes your agreement to the service conditions for the transportation of your shipments as found in the applicable FedEx Service Guide, available upon request. FedEx will not be responsible for any claim in excess of the applicable declared value, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the applicable FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of 100 USD or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is 500 USD, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see applicable FedEx Service Guide. FedEx will not be liable for loss or damage to prohibited items in any event or for your acts or omissions, including, without limitation, Improper or Insufficient packaging, securing, marking or addressing, or the acts or omissions of the recipient or anyone else with an interest in the package. See the applicable FedEx Service Guide for complete terms and conditions. To obtain information regarding how to file a claim or to obtain a Service Guide, please call 1-800-GO-FEDEX (1-800-463-3339).

## Track Fedex package

787225869370

Track

Fedex package #787225869370  
[www.fedex.com](http://www.fedex.com)

Delivered: Tue, May 14, 11:06 AM



Processed	In transit	Delivered
DATE	TIME	LOCATION
May 14	11:06 AM	Miami, FL, United States
		Delivered
May 14	8:36 AM	Miami, FL, United States
		On FedEx vehicle for delivery
May 14	7:41 AM	Miami, FL, United States
		At local FedEx facility
May 13	8:01 PM	Miami, FL, United States
		Left FedEx origin facility
May 13	7:01 PM	Miami, FL, United States
		Picked up

Data from [fedex.com](http://fedex.com)

**EXHIBIT “B”**

SUNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION  
www.flnb.uscourts.gov

IN RE:

Case No. 17-40185-KKS

CAMPBELLTON-GRACEVILLE HOSPITAL  
CORPORATION,

Chapter 11

Debtor.

/

**AFFIDAVIT OF MARTA ALFONSO OF MORRISON, BROWN, ARGIZ & FARRA, LLC  
IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT FINAL JUDGMENT  
AGAINST EMPOWER H.I.S., LLC AND JORGE A. PEREZ.**

STATE OF FLORIDA )  
                      )  
                      ) ss.  
COUNTY OF MIAMI-DADE )

Marta Alfonso, being duly sworn by me, the undersigned authority, a Notary Public within and for aforesaid county and state, deposes and states:

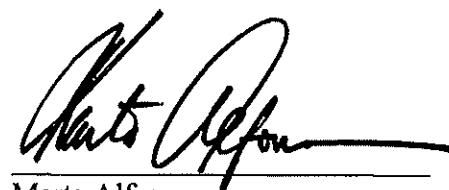
1. My name is Marta Alfonso and I am a CPA, ABV, CFF, CGMA, JD and principal in the Litigation and Valuation Division at Morrison, Brown, Argiz and Farra (“MBAF”).
2. On May 30, 2019, the Liquidating Trustee, on behalf of the Campbellton Graceville Hospital Liquidating Trust (the “Trustee”) engaged MBAF’s services as a forensic accounting consultant, to perform a forensic analysis of Empower H.I.S. LLC’s (“Empower”) and Jorge Perez’s (“Perez”) financials, as provided in the Mediation Agreement by and between the Trustee, Empower and Perez.
3. I am familiar with the matters set forth herein and submit this Affidavit in support of *Trustee's Motion for Default Final Judgment Against Empower H.I.S. LLC and Jorge A. Perez* (the “Motion”).

4. On June 11, 2019, I sent correspondence via Fedex to Empower and Perez requesting production of the documents necessary to perform their forensic analysis and as required under the Mediation Agreement (the "Document Request"). A copy of the Document Request is attached as Exhibit "A."

5. The Document Request requested Empower and Perez to timely provide this information by no later than June 22, 2019.

6. The Document Request included an address, email address, and phone number to reach me; however, Empower and Perez failed to produce any documents before the deadline or correspond with me regarding Document Request or the forensic analysis as required by the Mediation Agreement.

Further Affiant Sayeth Naught

  
\_\_\_\_\_  
Marta Alfonso

Before Me, the undersigned authority, personally appeared Marta Alfonso, who is personally known to me, and who did take an oath.

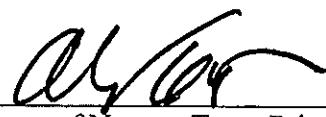
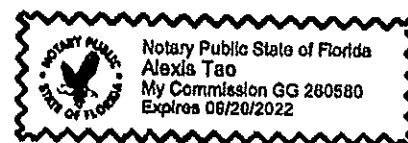
  
\_\_\_\_\_  
Name of Notary, Type, Printed or Stamped.

Exhibit "A"



June 11, 2019

**BY FEDERAL EXPRESS  
CONFIDENTIAL CORRESPONDENCE**

Mr. Jorge Perez  
Empower H.I.S., LLC  
8770 S.W. 72<sup>nd</sup> Street, No. 459  
Miami, Florida 33173

Dear Mr. Perez:

I am writing on behalf of MBAF, CPAs, who has been selected to serve as the Forensic Accountant to perform a forensic analysis of the Empower Entities' financial information, including any entity that the Empower Entities have a significant interest in since June 1, 2015.

Accordingly, please provide us the following information which will be treated as Confidential pursuant to the terms of the Mediation Settlement Agreement Between (I) The Debtor, Campbellton-Graceville Hospital Corporation, (II) The Official Committee of Unsecured Creditors; and (III) Empower H.I.S., LLC and Jorge A. Perez dated October 29, 2018:

- Jorge Perez (and Jorge E. Perez and/or Ricardo Perez)
  - The last three years of filed Tax Returns;
  - Any and all bank statements, including deposit slips and cancelled checks, held in Jorge Perez's individual name or held jointly with others or as beneficiary dating back to June 1, 2015;
  - A list of all assets in which Perez has or claims a direct or indirect legal or beneficial interest if greater than \$10,000;
  - An Affidavit of all transfers made to third parties for the benefit of Perez or Empower that are in excess of \$10,000; and
  - Balance Sheet and Assets of any entity in which Perez or Empower have or previously had a material interest in since June 1, 2015.
- Empower H.I.S. LLC; Med X Group, Inc. (and Empower HMS, LLC)
  - The last three years of filed Tax Returns;
  - Any and all bank statements dating back to June 1, 2015, including deposit slips and cancelled checks;
  - A balance sheet of all assets either entity has or claims a direct or indirect legal or beneficial interest if greater than \$10,000;
  - Any and all transfers since June 1, 2015 exceeding \$10,000;
  - Profit and Loss (P&L) and Balance Sheets for the periods between June 1, 2015 and December 31, 2016;
  - The Financial Valuation data, Balance Sheet and a list of assts related to any entity in which these companies have a material interest in since June 1, 2015;
  - Proof of dissolution prior to June 1, 2015, as applicable; and
  - General ledgers for both companies from June 1, 2016 to date in excel form.

An Independent member of Baker Tilly International

*Mr. Jorge Perez  
Empower H.I.S., LLC  
June 11, 2019  
Page 2*

Kindly provide this information by no later than June 22, 2019 to Ms. Marta Alfonso, Principal, MBAF, 1450 Brickell Avenue, 18<sup>th</sup> Floor, Miami, Florida, 33131. Should you have any questions, please contact me at [malfonso@mbafcpa.com](mailto:malfonso@mbafcpa.com) or 305.373.5500.

Very truly yours,

  
Marta Alfonso  
Principal

**Sent via Federal Express to:**

Registered Agent  
Empower HIS LLC  
8724 SW 72ND STREET #459  
MIAMI, FL 33173

**EXHIBIT “C”**

MEDIATION SETTLEMENT AGREEMENT BETWEEN (I) THE DEBTOR,  
CAMPBELLTON-GRACEVILLE HOSPITAL CORPORATION;  
(II) THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS; AND  
(III) EMPOWER H.I.S., LLC AND JORGE A. PEREZ

THIS MEDIATION SETTLEMENT AGREEMENT (the “Agreement” or the “Definitive Mediation Agreement”) is entered into by and between (i) the Debtor, Campbellton-Graceville Hospital Corporation (the “Debtor”); (ii) the Official Committee of Unsecured Creditors (the “Committee”); and (iii) Empower H.I.S., LLC (“Empower”) and Jorge Perez (“Perez”), (Empower and Perez are hereinafter referred to as the “Empower Entities”, together with the Debtor and the Committee, the “Parties”) in connection with the Debtor’s, the Committee’s, and the bankruptcy estate’s claims against the Empower Entities, whether known or unknown, contingent or mature, liquidated or unliquidated, from the beginning of time through the date of this Agreement, of any kind or nature whatsoever (collectively, the “Claims” or “Claims”).

The Parties to this Agreement hereby agree as follows:

WHEREAS, the Empower employed certain billing software at the Debtor’s Facilities to be used in conjunction with all hospital billing services from approximately May 2015;

WHEREAS, the Empower Entities assert that later on, at the request of People’s Choice Hospital, LLC (“PCH”), the Empower Entities were asked to use the billing software at the Debtor’s facilities, to bill the Debtor’s Hospital Laboratory Outreach Program, which had been started by PCH, and which operated for approximately ten months from November of 2015 through September 1, 2016 (“Lab Program”) and the Debtor and Committee dispute these contentions;

WHEREAS, on May 5, 2017 (“Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the

Northern District of Florida (the "Bankruptcy Court") which was assigned Case Number 17-40185-KKS (the "Bankruptcy Case");

WHEREAS, Empower H.I.S. LLC, received, at a minimum, \$3,375,065.26, in addition to other amounts arising from potential claims and/or transfers that the Debtor and Committee are investigating (the "Transfers");

WHEREAS, the Empower Entities maintain that their receipt of the Transfers was completely proper, legal and due pursuant to their contractual relationships relative to services they performed for the prepetition Debtor and the Debtor and Committee dispute these contentions;

WHEREAS, on January 30, 2018, LifeBrite Laboratories, LLC filed a *Motion to Dismiss Chapter 11 Case Based Upon Debtor's Ineligibility to Be a Debtor Under 11 U.S.C. § 109(d)* [ECF No. 398] (the "Motion to Dismiss");

WHEREAS, on February 6, 2018, Empower filed a Joinder to the Motion to Dismiss ("Joinder");

WHEREAS, on January 30, 2018, the Empower Parties filed a Motion to Disqualify Broad and Cassel and Frank Terzo, Esq. as Counsel of the Unsecured Creditors Committee ("DQ Motion") for alleged conflicts of interest and alleged witness tampering by the Committee's Investigator. On March 15, 2018, the Court entered its Memorandum Opinion, confirming that the movant had no standing to seek to disqualify Committee Counsel. As a result, on March 29, 2018, the Committee filed a Motion for Sanctions (and entry of show-cause order) ("Motion for Sanctions") against Empower Systems H.I.S. LLC and its Counsel, seeking approximately \$113,000.00 for reimbursement of the Committee's professional fees and costs incurred defending against the DQ Motion. The court entered the Show Cause Order and the Motion for Sanctions has been reset for hearing on May 24, 2018;

WHEREAS, on May 2, 2018, the Parties participated in a 2-day mediation session ("Mediation") in Orlando, Florida, with respect to the Claims against the Empower Entities;

WHEREAS, Elizabeth A. Green of Baker Hostetler, LLP was the mediator (the "Mediator") at the Mediation; and

WHEREAS, without admitting or determining any liability whatsoever, and in the interest of avoiding further costly, uncertain, and time-consuming litigation between the Parties, and based on the Parties desire to provide for a complete and final resolution, the Parties resolved their disputes at the Mediation which culminated in the execution of a Binding Mediation Agreement Term Sheet on Thursday, May 3, 2018 that required the execution of this Definitive Mediation Agreement within 10 days after execution of the Binding Mediation Term Sheet.

NOW, THEREFORE, in consideration of the mutual promises and releases contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

**DEFINITIONS:**

A. The term "Final Order" shall mean a final order or judgment entered by a court approving this Agreement as to which all of the following have occurred: the expiration of the time for the filing or noticing of any appeal from such final order or judgment (including the expiration of the time for petitions for writs of certiorari); if any appeal is taken, the expiration of ten days after dismissal of the appeal or a final appellate determination affirming the order or judgment, not subject to further review, appeal or petition for rehearing, or such appeal by the highest court before which appellate review is or could be sought.

B. The term "Committee" as used in this Agreement shall mean the Official Committee of Unsecured Creditors in the above styled Bankruptcy Case.

C. The term "Effective Date" shall be the date of an order approving the Mediation Agreement.

AGREEMENT

1. The Parties agree that the above recitations are true and correct. The Recitals to this Agreement are hereby incorporated herein by this reference.

2. In full and final settlement of the Claims and any and all disputes of any kind or nature whatsoever among the Parties:

A. The Empower Entities shall pay the sum of Four Hundred and Fifty Thousand Dollars (\$450,000.00) to the Debtor, as follows:

i. The Empower Entities shall pay \$100,000.00 (the "Initial Settlement Payment") directly to the Debtor or the Liquidating Trustee, as may be appropriate, within 120 days of the Effective Date.

ii. After paying the First Settlement Payment, The Empower Entities shall pay \$50,000.00 (the "Second Settlement Payment") to the Debtor or the Liquidating Trustee, as may be appropriate, within 180 days of the Effective Date.

iii. The Empower Entities shall additionally pay \$300,000.00 (the "Third Settlement Payment") to the Debtor or the Liquidating Trustee, as may be appropriate, over the next four (4) year period after the Second Settlement Payment is made. The Third Settlement Payment shall be paid in sixteen (16) consecutive quarterly installments of \$18,750.00 per quarter (within an annual collection of \$75,000.00), due on the first day of the month falling ninety (90) days after the Second Settlement Payment is paid (the First

Settlement Payment, Second Settlement Payment and Third Settlement Payment are hereinafter collectively referred to as the "Settlement Funds"). Empower may at its option defer any quarterly payment due under this paragraph until the end of the calendar year during which such quarterly payment was due, and such payment shall be considered timely made.

iv. Monetary Default. In the event that the Empower Entities default in payment of the Settlement Funds in accordance with the provisions of this Agreement, than after first giving written notice of default to the Empower Entities and its Counsel, and provided the Empower Entities fail to cure such Monetary Default by payment of any defaulted amount within ten (10) business days of the delivery of written notice of default, the Debtor, the Liquidating Trustee, and/or the Committee, if still in existence, shall have the following rights:

1. In the event the Empower Entities fail to pay the Initial Settlement Payment within 120 days of the Effective Date, the Debtor, the Liquidating Trustee, and/or the Committee, if still in existence may, in their sole discretion, have the option to terminate this Mediation Agreement. In the event the Debtor and Committee terminate this Agreement, then the Release provided in Section D of this Agreement shall be null and void.
2. In the event the Empower Entities pay the First Settlement Payment but fail to pay the Second Settlement Payment or the Third Settlement Payment, the Debtor and/or the Liquidating trustee shall have the right to the entry of a final judgment against the Empower Entities in the amount of \$5,000,000.00, minus any Settlement Funds previously paid to the Debtor.

B. Forensic Disclosures: The Debtor, Committee and the Empower Entities have selected MBAF, Certified Public Accountants and Advisors as the Forensic Accountant (contingent on a conflict check by and between all Parties and MBAF, including an affirmative representation by MBAF that it has had no prior relationship with the Empower Entities and MBAF's reasonable estimate of fees) to perform a forensic analysis of the Empower Entities financials, as further described below, including any entity that the Empower Entities have a significant interest in since June 1, 2015, all at the costs and expense of the Debtor. The Empower Entities agree to fully cooperate with the Debtor and Committee's designated Forensic Accountant and provide the following list of documents which shall remain confidential as to all Parties except the Forensic Accountant and the Mediator. Upon completion of the Forensic Accountant's review of the Empower Entities Financials a report shall be provided to the Debtor and Committee reflecting the results of the analysis. All information disclosed to the Forensic Accountant shall be kept strictly confidential by the Forensic Accountant, who shall disclose such information only to the Mediator and only to the extent necessary to provide the Mediator with sufficient information to advise the Debtor and the Committee of the Forensic Accountant's ultimate determination. This confidentiality provision is a material term of this Agreement. The Debtor and the Committee shall not communicate directly with the Forensic Accountant. However, if the Debtor, the Committee or Liquidating Trustee discover financial information that may be useful to the Forensic Accountant, they may provide same to the Mediator to provide to the Forensic Accountant. All communications between the Debtor, the Committee, the Empower Entities, the Mediator, and the Forensic Accountant shall always be copied to all other parties; except that the information communicated by the Empower Entities and the Mediator to the Forensic Accountant shall remain confidential and shall not be shared with any other individuals or entities. After the Forensic

Accountant makes a determination about the financial condition of the Empower Entities with the cooperation of the Debtor, Committee or Liquidating Trustee as needed without violating the other terms of this paragraph, the Forensic Accountant will provide its determination of the Empower Entities' combined aggregate net worth, whether any material portion of such net worth was undisclosed, and identification of the existence of any undisclosed assets or transfers with value exceeding \$250,000.00, along with any necessary supporting documentation, to the Mediator. The Mediator will then prepare a summary report for the Debtor and the Committee which shall safeguard the confidential information to the greatest extent possible. The Mediator shall provide the Debtor and the Committee with the Empower Entities' combined aggregate net worth, whether any portion of the aggregate combined net worth was undisclosed, and identify any undisclosed asset with a value exceeding \$250,000, or transfers outside the ordinary course of business (as determined by the Forensic Accountant) exceeding \$250,000, along with the value of such asset or transfer , but without disclosing any other confidential information without prior approval of the Empower Entities.

i. Jorge Perez (and Jorge E. Perez and/or Ricardo Perez, if included on the Released Party Schedule) shall provide the following:

1. The last three years of filed Tax Returns;
2. Any and all bank statements held in Jorge Perez's individual name or held jointly with others or as beneficiary dating back to June 1, 2015;
3. A list of all assets in which Perez has or claims a direct or indirect legal or beneficial interest if greater than \$10,000.00;
4. An Affidavit of transfers made to third parties for the benefit of Perez or Empower that are in excess of \$10,000.00;
5. Balance Sheet and Assets of any entity in which Perez and Empower have or previously had a material interest in since June 1, 2015; and
6. Any other reasonable request of the Forensic Accountant.

ii. Empower H.I.S. LLC; Med X Group, Inc. (and Empower HMS, LLC, if included on the Released Party Schedule) shall deliver:

1. The last three years of filed Tax Returns;
2. Any and all bank statements dating back to June 1, 2015;
3. A balance sheet of all assets either entity has or claims a direct or indirect legal or beneficial interest if greater than \$10,000;
4. Any and all transfers since June 1, 2015 exceeding \$10,000.00 and outside the ordinary course (as determined by the Forensic Accountant);
5. Profit and Loss (P&L) and Balance sheets for periods between June 1, 2015 and December 31, 2016;
6. The Financial valuation data, Balance Sheet and a list of assets related to any entity in which these companies have a material interest in since June 1, 2015;
7. Any other reasonable request of the Forensic Accountant; and
8. Proof of dissolution prior to June 1, 2015, as applicable.

iii. **Forensic Default:**

1. In the event the Forensic Accountant, Liquidating Trustee, Committee or Debtor finds an undisclosed asset exceeding \$250,000 in value, undisclosed transfer outside the ordinary course of business (as determined by the Forensic Accountant) exceeding \$250,000.00 or there is an undisclosed combined aggregate net worth of the Empower Entities in excess of \$1,000,000.00, then within thirty (30) days of being informed of such discovery, the Empower Entities have the following options:
  - a. transfer to the Debtor or Liquidating Trustee the value of the additional asset(s), transfer(s), or the value of the amount of the aggregate combined net worth of the Empower Entities exceeding \$1,000,000.00; or

- b. Agree to the entry of a judgment against the Empower Entities in favor of the Debtor or the Liquidating Trustee, as applicable, in the amount of \$5,000,000.00 minus any Settlement Funds paid;
2. If it is determined by the Forensic Accountant that the collective net worth of the Empower Entities is greater than \$1,000,000.00 and this determination is disputed by the Empower Entities, the Empower Entities shall provide written notice of such dispute identifying the specific item(s) of dispute to the Forensic Accountant, Debtor and Committee, within ten (10) business days from the date that the Empower Entities received notice of the Forensic Accountant's determination, and shall deliver \$50,000.00 to the Mediator to hold in escrow. The Empower Entities shall then have an opportunity to provide clarifying information to the Forensic Accountant and otherwise meet with or interact with the Forensic Accountant with regard to the determination. If after reviewing the information and discussing same with the Empower Entities, the Forensic Accountant modifies its original determination of the Empower Entities' combined aggregate net worth in favor of the Empower Entities, the \$50,000.00 shall be applied to the Initial Settlement Payment. If the Forensic Accountant does not change its original determination of the Empower Entities' combined aggregate net worth, any of the Empower Entities, the Committee or Debtor may, in their discretion, terminate this Agreement and the Mediator shall deliver the \$50,000.00 (but not to exceed the Forensic Accountant's actual costs) to the Debtor or the Debtor and Committee may retain the \$50,000.00 (but not to exceed the Forensic Accountant's actual costs) and agree to continue mediation efforts to resolve the dispute.
3. Notwithstanding Section iii (1) above, within the thirty (30) day period following discovery of one or more undisclosed assets which exceed \$250,000 in value or undisclosed transfers outside the ordinary course

(as determined by the Forensic Accountant) which exceed \$250,000 and in addition to the options set forth therein available to the Empower Entities, the Debtor or the Liquidating Trustee, shall have the option to terminate this Mediation Agreement and retain any Settlement Funds received (up to a maximum of \$100,000.00). In the event the Debtor and Committee terminate this Agreement, then the Release provided in Section D of this Agreement shall be null and void.

4. In the event of a Forensic Default, the Forensic Accountant and/or the Mediator may provide the Debtor, Committee, and/or the Liquidating Trustee with the minimum sufficient information to identify the Forensic Default (i.e. identify the undisclosed transfer/asset and its alleged value).

C. Notice. Any notices required by this Agreement must be given either in writing by U.S. Mail, certified/return receipt requested and by overnight delivery service or e-mail to the Parties as follows:

To Empower H.I.S., LLC:  
Jorge Perez  
8770 SW 72nd Street No. 459  
Miami, FL 33173

And the then-current Registered Agent for Empower H.I.S., LLC

To the Debtor:  
Campbellton-Graceville Hospital Corporation  
c/o Marshall Glade, Chief Restructuring Officer  
GlassRatner Advisory & Capital Group, LLC  
3445 Peachtree Road, Suite 1225  
Atlanta, GA 30326  
E-mail: [mglade@glassratner.com](mailto:mglade@glassratner.com)

To the Debtor's Counsel:  
Brian G. Rich, Esq.  
Berger Singerman LLP  
313 North Monroe Street, Suite 301

Tallahassee, FL 32301  
Tel. (850) 561-3010  
E-mail: brich@bergersingerman.com

To the Creditor's Committee:

Frank P. Terzo, Esq.  
Nelson Mullens Broad and Cassel, LLP  
One Financial Plaza  
Suite 2700  
Fort Lauderdale, FL 33394  
Tel. (954) 764-7060  
E-mail: fterzo@broadandcassel.com

To Mediator:

Elizabeth Green  
BakerHostetler LLP  
200 S Orange Ave suite 2300  
Orlando, Florida 32801  
P: 407-649-4036

To Forensic Accountant:

Notices so given shall be deemed given and effective upon actual receipt. Emails are deemed to have been received as of the date of successful electronic delivery of the Notice.

D. RELEASE:

In interpreting the provisions of the release provisions employed herein, it is intended that the mutual releases of the Claims plus any other claims, disputes, or causes of action be given the broadest interpretation so as to absolutely preclude any type of demand, obligation, litigation, or equitable remedy arising from the beginning of time through the date of this Agreement. Effective upon the Final Order and in the absence of a termination of the Agreement by the Debtor or Committee as specified above but without the need for the execution and delivery of additional documentation, or any additional orders of the Bankruptcy Court, the Debtor and the Committee, for and on behalf of (i) themselves, (ii) all current and former employees, agents, attorneys,

directors, board members, trustees, and contractors of the Debtor, (iii) all of the Debtor's predecessors, successors, and assigns; (iv) the Debtor's bankruptcy estate, (v) any hereafter liquidating trustee, liquidating agent, litigation agent or similar party, (vi) any hereafter chapter 11 trustee, chapter 7 trustee or similar party, (vii) any estate representative under 11 U.S.C. Section 1123 or any estate representative or trustee or party in interest as might be appointed under 11 U.S.C. Section 926, or otherwise, and (viii) any and all predecessors, successors, and assigns of any of the foregoing (collectively "Releasing Parties"), do hereby release and forever waive, acquit and discharge the Empower Entities, as well as any attorneys who represented the Empower Entities in the Bankruptcy Case, and any other party named on the Released Party Schedule, to which the Debtor and Committee may review and object to prior to execution of this Agreement, attached and incorporated herein as Exhibit "A" (collectively, the "Empower Released Parties") from the Claims plus any and all debts, claims (including claims acquired by or assigned to any of the Releasing Parties before or after the Effective Date), demands, damages, losses, liabilities, rights, obligations, accounts, covenants, agreements, judgments, encumbrances, remedies, actions, arbitrations, causes of action, expenses, contracts, insurance contracts and policies, promises, awards, penalties, punitive damages, contribution, indemnification, subrogation, conspiracy, proceedings and suits of any kind or nature whatsoever, whether liquidated or unliquidated, accrued or contingent, known or unknown, foreseen or unforeseen, statutory, equitable, legal, regulatory or arising under common law and from any and all further liability of whatever kind or nature which arose or may have arisen from the beginning of time through the date of this Agreement and including, but not limited to, and further expanded by all claims as defined by 11 U.S.C. Section 101(5) including, without limitation, any avoidance actions under any applicable federal or state law, including, but not limited to, 11 U.S.C. Sections 544, 545, 546, 547, 548, 549,

550 and 551, as well as claims under, pursuant to, or as authorized by Chapter 726, Florida Statutes and any other fraudulent transfer, clawback, avoidance, or any other claim provided by common law, the Bankruptcy Code, and state or federal law. This Release in favor of the Empower Released Parties by the Releasing Parties shall specifically not release the Empower Entities from payment of the Settlement Funds or its Settlement duties owed to the Debtor and the Committee arising under this Agreement.

Effective upon the Final Order, and in the absence of a termination of the Agreement by the Debtor or Committee, the Empower Entities shall hereby release and discharge the Debtor, the Campbellton-Graceville Hospital District and the Committee, as well as the Debtor's collective former and current officers, directors, employees, attorneys, members, shareholders, and agents, the Committee members, its attorneys and other professionals from any and all debts, claims, demands, damages, losses, liabilities, rights, actions, arbitrations, causes of action, expenses, contracts, promises, awards, penalties and suits of any kind or nature whatsoever, whether liquidated or unliquidated, accrued or contingent, known or unknown, foreseen or unforeseen, statutory, regulatory or arising under common law and from any and all further liability of whatever kind or nature from the beginning of time and that now exist as of the date of this Agreement and including, but not limited to any and all claims as defined by 11 U.S.C. Section 101(5).

E. Upon execution of this Agreement, the Empower Entities shall withdraw its Joinder, without prejudice , and shall not refile it or seek any similar relief unless the Agreement is not approved.

F. Upon execution of this Agreement, the Empower Entities shall not interfere or file any pleading or appeal in the Debtor's Bankruptcy Proceeding, nor file any pleading in any other matter against the Debtor or Committee.

G. Upon execution of this Agreement, The Committee shall withdraw the Motion for Sanctions, without prejudice, and shall not refile it or seek any similar relief unless the Agreement is not approved.

H. Upon execution of this Agreement, the Debtor shall withdraw its pending motion to compel.

I. The Parties, their attorneys and advisors (including, but not limited to, Mike Murtha, Michelle Blankenship-Jordan, and JT Lander) agree that they will not disparage, denigrate, or direct others to denigrate or make or direct others to make false, misleading, or disparaging statements, written or verbal, concerning any of the other Parties. The Parties further agree that they will not make or publish any statements to any third party about each other relating to the Claims, the Bankruptcy Case, or the Lab Program, including but not limited to media organizations.

J. Cooperation and Assistance. The Empower Entities shall cooperate with the Debtor, and/or Committee and provide reasonable assistance to the Debtor and/or Committee with respect to recovering any additional monies from persons other than the Empower Entities, objecting to any claims filed in the Debtor's bankruptcy case, and prosecuting or defending any appeals of Orders entered in the Debtor's bankruptcy case which challenge this Agreement. This shall include, but is not limited to, providing, within a reasonable time period, the Debtor and Committee documents, invoices, and correspondence (subject to privilege) requested, either formally or informally, regarding the Empower Entities' involvement with the Lab Program. Additionally, Jorge Perez shall meet with the Debtor and Committee, upon reasonable notice of said meeting and at a time and place convenient for all attending parties, and provide a sworn statement to questions raised by the Debtor and Committee regarding his and Empower's

participation in and the operation of the Lab Program which shall be considered the Debtor, Committee and Liquidating Trust's work product and subject to any discovery privilege related thereto. Additionally, the Empower Entities, at no charge, shall turn over all software used at the Debtor's facility (the "Empower Software") within their possession or control will and use their commercially reasonable efforts to assist the Debtor and Committee in accessing and reviewing the Empower Software with the assistance of either the Debtor or Committee's IT representatives, on site as appropriate and if necessary. The Debtor, Committee and/or Liquidating Trustee shall use all legal means available to compel any party to turn over all software or data as needed to accomplish the intent of this paragraph. The Empower Entities will provide such information and expertise necessary to support such efforts. The intent of this provision is to assist the Debtor with accessing the Empower Software of the Empower IT platform to allow the Debtor to process its data and prepare reports consistent with what was performed when Empower was performing its services for the Debtor. The Empower Entities represent and warranty that they have not taken and will not take any act intended to defeat the intent of the paragraph, including but not limited to deleting information to put it beyond their possession and control.

K. The Parties shall each pay their pro-rata portion of the Mediator's fee within ten (10) business days from the date of each invoice submitted to the Parties by the Mediator, and each Party agrees to pay their own attorneys' fees and costs in connection with the Bankruptcy Case.

L. The execution of this Agreement is not an admission of liability or wrongdoing by the Empower Entities.

M. This Agreement shall be governed by, and construed and enforced in accordance with the law of the State of Florida, without regard to its conflict of law principles.

N. The Parties acknowledge that they have been represented by counsel of their own choice in the negotiations leading up to the execution of this Agreement and that they have read this Agreement and have had the opportunity to receive an explanation from legal counsel regarding the legal nature and effect hereof.

O. This Agreement constitutes the entire agreement of the Parties hereto regarding the subject matter hereof. Each of the Parties acknowledges and agrees that there are no communications or oral understandings contrary, different, or that in any way restrict this Agreement and that all prior agreements or understandings within the scope of the subject matter of this Agreement are superseded in all respects and are null and void.

P. No waiver, modification or amendment of the terms of this Agreement shall be valid or binding, unless made in writing, signed by each of the Parties and then only to the extent as set forth in such written waiver, modification, or amendment.

17. Upon entry of the Final Order, this Agreement shall be binding on the Debtor, the Committee and the Empower Entities, along with their respective predecessors, successors and assigns. Without limiting the foregoing, this Agreement and the order approving the agreement shall be binding on any liquidating trustee, liquidating agent, litigation agent, or similar person, and on any estate representative, Chapter 11 trustee, Chapter 7 trustee, or similar person, or any other party or party in interest under section 926, and shall be binding on the Debtor's bankruptcy estate or any future bankruptcy estate.

18. The Parties shall request that the Court retain jurisdiction to enforce and construe the provisions of this Agreement. Should any Party deem it necessary to bring an action in any court of competent jurisdiction to enforce the terms of this Agreement, the court shall award attorneys' fees incurred and costs to the prevailing party of such action, including appeals, if any.

19. The Parties agree that this Agreement is an instrument negotiated by all Parties hereto and will not be construed against its drafter.

20. This Agreement may be executed in one or more counterparts, each counterpart to be considered an original portion of this Agreement and all of which shall constitute a singular instrument.

21. Each Party to this Agreement represents and warrants that it is duly authorized to execute this Agreement and that the person through whom each Party executes this Agreement is fully and duly empowered and authorized to execute it on the respective party's behalf.

[SIGNATURE PAGE TO FOLLOW]

Dated: October \_\_\_, 2018

CAMPBELLTON-GRAVEVILLE  
HOSPITAL CORPORATION, the Debtor

Dated: October \_\_\_, 2018

OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS

By: \_\_\_\_\_

Marshall Glade, Chief  
Restructuring Officer

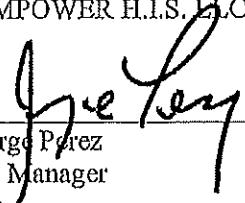
By: \_\_\_\_\_

Print name: *Scott A. Finlay* Scott A Finlay  
As: *Chair of Committee* *Chair of Committee* sfinlay@max.md  
(172-70-122-178)  
CEO MaxMD  
Tue, 06 Nov 2018 15:37:48 -  
0500

October 29th 2018

EMPOWER H.I.S., LLC

Jorge Perez  
Its Manager



October 29th 2018

CHILDERS LAW, LLC  
Attorney for Empower H.I.S., LLC  
and Jorge Perez  
2135-B NW 43rd Terrace  
Gainesville, FL 32605

Seldon J. Childers, Esq.  
Florida Bar No. 61112  
[jchilders@smartbizlaw.com](mailto:jchilders@smartbizlaw.com)

Jorge Perez

AS TO PARAGRAPH I:

Mike Murtha



Joseph T. (JT) Lander

Dated: May \_\_\_, 2018

BERGER SINGERMAN LLP  
*Counsel for the Debtor*  
313 N. Monroe Street, Ste 301  
Tallahassee, FL 32301  
Tel. (850) 561-3010  
Fax (850) 561-3013

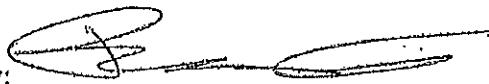
By: /s/ Brian G. Rich

Brian G. Rich  
Florida Bar No. 38229  
brich@bergersingerman.com

Dated: May \_\_\_, 2018

NELSON MULLENS BROAD AND  
CASSEL  
*Counsel for the Committee*  
100 S.E. 3<sup>rd</sup> Ave., Ste 2700  
Ft. Lauderdale, FL 33394  
Tel. (954) 764-7060  
Fax (954) 761-8135

By:

  
Frank P. Terzo  
Florida Bar No. 906263  
frank.terzo@nelsonmullins.com

AS TO PARAGRAPH I:

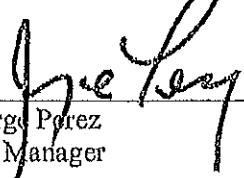
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Michelle Blankenship-Jordan

October 29, 2018

EMPOWER H.I.S., LLC

Jorge Perez  
HIS Manager



October 27, 2018

CHILDEERS LAW, LLC  
Attorney for Empower H.I.S., LLC  
and Jorge Perez  
2135-B NW 43rd Terrace  
Gainesville, FL 32605

---

Seldon J. Childers, Esq.  
Florida Bar No. 61112  
jchilders@smartbizlaw.com

Jorge Perez



AS TO PARAGRAPH I:

---

Mike Murtha

  
Joseph T. (JT) Lander

Exhibit "A"

Released Party Schedule

1. Empower H.I.S. LLC
2. Jorge Perez

**EXHIBIT “D”**

Page 1

1 Re: Mediation Settlement Agreement Between  
2 (I) the Debtor, Campbellton Graceville  
3 Hospital Corporation; (II) The Official  
4 Committee of Unsecured Creditors; and  
5 (III) Empower H.I.S., LLC and Jorge Perez  
6 (The "Settlement Agreement")  
7 \_\_\_\_\_ /  
8

9 CERTIFICATE OF NON-APPEARANCE  
10

11 I, ERICA BARRIOS, a Notary Public in and for  
12 the State of Florida, do hereby certify that I was  
13 present at the Offices of Nelson Mullins Broad & Cassel  
14 located at 2 South Biscayne Boulevard, 21st Floor,  
15 Miami, Florida 33131, on Tuesday, May 21, 2019, at 12:00  
16 p.m., for the purpose of reporting the sworn statement  
17 of JORGE PEREZ and that deponent did not appear.

18 Under penalties of perjury, I declare that I  
19 have read the foregoing certificate and that the facts  
20 stated in it are true.

21 DATED THIS 29th day of May, 2019.  
22

23   
24

25 ERICA BARRIOS, REPORTER

Notary Public - State of Florida

[&amp; - unsecured]

Page 2

<b>&amp;</b>	<b>f</b>	<b>purpose</b> 1:16
<b>&amp; 1:13</b>	<b>facts</b> 1:19	<b>r</b>
<b>2</b>	<b>floor</b> 1:14	<b>read</b> 1:19
<b>2 1:14</b>	<b>florida</b> 1:12,15,25	<b>reporter</b> 1:24
<b>20047 1:23</b>	<b>foregoing</b> 1:19	<b>reporting</b> 1:16
<b>2019 1:15,21</b>	<b>g</b>	<b>s</b>
<b>21 1:15</b>	<b>graceville</b> 1:2	<b>settlement</b> 1:1,6
<b>21st 1:14</b>	<b>h</b>	<b>signature</b> 1:23
<b>29th 1:21</b>	<b>h.i.s.</b> 1:5	<b>south</b> 1:14
<b>3</b>	<b>hospital</b> 1:3	<b>state</b> 1:12,25
<b>33131 1:15</b>	<b>i</b>	<b>stated</b> 1:20
<b>a</b>	<b>ii</b> 1:3	<b>statement</b> 1:16
<b>agreement</b> 1:1,6	<b>iii</b> 1:5	<b>sworn</b> 1:16
<b>appear</b> 1:17	<b>j</b>	<b>t</b>
<b>appearance</b> 1:9	<b>jorge</b> 1:5,17	<b>true</b> 1:20
<b>b</b>	<b>l</b>	<b>tuesday</b> 1:15
<b>barrios</b> 1:11,24	<b>llc</b> 1:5	<b>u</b>
<b>biscayne</b> 1:14	<b>located</b> 1:14	<b>unsecured</b> 1:4
<b>boulevard</b> 1:14	<b>m</b>	
<b>broad</b> 1:13	<b>mediation</b> 1:1	
<b>c</b>	<b>miami</b> 1:15	
<b>campbellton</b> 1:2	<b>mullins</b> 1:13	
<b>cassel</b> 1:13	<b>n</b>	
<b>certificate</b> 1:9,19	<b>nelson</b> 1:13	
<b>certify</b> 1:12	<b>non</b> 1:9	
<b>committee</b> 1:4	<b>notary</b> 1:11,25	
<b>corporation</b> 1:3	<b>o</b>	
<b>creditors</b> 1:4	<b>offices</b> 1:13	
<b>d</b>	<b>official</b> 1:3	
<b>dated</b> 1:21	<b>p</b>	
<b>day</b> 1:21	<b>p.m.</b> 1:16	
<b>debtor</b> 1:2	<b>penalties</b> 1:18	
<b>declare</b> 1:18	<b>perez</b> 1:5,17	
<b>deponent</b> 1:17	<b>perjury</b> 1:18	
<b>e</b>	<b>present</b> 1:13	
<b>empower</b> 1:5	<b>public</b> 1:11,25	
<b>erica</b> 1:11,24		

**EXHIBIT “E”**

June 25, 2019

**VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED  
AND FEDERAL EXPRESS**

Empower H.I.S., LLC  
Jorge Perez  
8770 SW 72nd Street, #459  
Miami, FL 33173

Empower H.I.S., LLC  
c/o Registered Agent  
8724 SW 72nd Street, #459  
Miami, FL 33173

Re: Notice of Default - Breach of Mediation Agreement Between (I) the Debtor, Campbellton Graceville Hospital Corporation (“Debtor”); (II) the Official Committee of Unsecured Creditors (“Committee”); and (III) Empower H.I.S., LLC and Jorge Perez (“Settlement Agreement”).

*Final Notice Case No. 17-40185-KKS*

Dear Mr. Perez:

This letter shall constitute formal notice from the Liquidating Trustee, successor in interest to the Debtor pursuant to that certain Liquidating Trust Agreement dated November 30, 2018 and filed in the Bankruptcy Case, that Empower H.I.S., LLC (“Empower”) and Jorge Perez (“Perez”) are in default of the attached Settlement Agreement (see Exhibit “A”). In particular, Empower and Perez have failed to comply with Paragraph 2(B) of the Settlement Agreement.

Pursuant to Paragraph 2(B), the parties selected Morrison, Brown, Argiz & Farra, LLC, Certified Public Accountants and Advisors (“MBAF”) as the Forensic Accountant to perform a forensic analysis on Empower and Perez’s financials, as further described in the Settlement Agreement. Empower and Perez agreed to “fully cooperate with the Debtor and Committee’s designated Forensic Accountant and provide the following list of documents.”

On or about May 30, 2019, the Liquidating Trustee engaged the services of MBAF, as a consultant, to perform a forensic analysis of Empower and Perez’s financials, as provided in the Settlement Agreement.

On June 11, 2019, Marta Alfonso of MBAF sent correspondence via FedEx to Empower and Perez requesting production of the documents necessary to perform their forensic analysis as required under the Settlement Agreement (the “Document Request”). The Document Request requested Empower to timely provide this information by no later than June 22, 2019. The Document Request included an address, email address, and phone number to reach Mrs. Alfonso;

June 25, 2019

Page 2

however, Empower and Perez have failed to produce any documents before the deadline or correspond with Mrs. Alfonso regarding the Document Request or the forensic analysis.

Based upon this default by Empower and Perez, they have materially breached the Settlement Agreement and, as a result, the Trust will be seeking to enforce the terms of the Settlement Agreement, including applying to the Bankruptcy Court for a final judgment in the sum of \$5,000,000. *See Settlement Agreement, Section 2(B)(iii)(1)(b).*

Should you have any further questions regarding our decision, feel free to contact either Brian Rich or Gary Freedman.

Sincerely,

NELSON MULLINS BROAD  
AND CASSEL LLP  
*Counsel to the Liquidating Trustee*  
100 S.E. 3<sup>rd</sup> Avenue, Suite 2700  
Ft. Lauderdale, FL 33394  
Telephone: (954) 764-7060

BERGER SINGERMAN LLP  
*Counsel to the Liquidating Trustee*  
313 North Monroe Street, Suite 301  
Tallahassee, FL 32301  
Tel. (850) 561-3010  
Fax (850) 561-3013

By: /s/ Frank Terzo  
Frank Terzo  
frank.terzo@nelsonmullins.com  
Gary Freedman  
gary.freedman@nelsonmullins.com

By: /s/ Brian G Rich  
Brian G Rich  
brich@bergersingerman.com  
Michael Niles  
mniles@bergersingerman.com

Enclosure

**EXHIBIT “F”**

August 19, 2019

**VIA USPS, CERTIFIED MAIL RETURN RECEIPT  
REQUESTED, AND FEDERAL EXPRESS**

Empower H.I.S., LLC  
Jorge Perez  
8770 SW 72nd Street, #459  
Miami, FL 33173

Empower H.I.S., LLC  
c/o Registered Agent  
8724 SW 72nd Street, #459  
Miami, FL 33173

Re: Notice of Default - Breach of Mediation Agreement Between (I) the Debtor, Campbellton Graceville Hospital Corporation (“Debtor”); (II) the Official Committee of Unsecured Creditors (“Committee”); and (III) Empower H.I.S., LLC and Jorge Perez (“Settlement Agreement”).

*Final Notice:* Case No. 17-40185-KKS

Dear Mr. Perez:

This letter shall constitute notice under the Settlement Agreement by the Liquidating Trustee, successor in interest to the Debtor pursuant to that certain Liquidating Trust Agreement dated November 30, 2018 and filed in the Bankruptcy Case, that Empower H.I.S., LLC (“Empower”) and Jorge Perez (“Perez, “and collectively with Empower, “Empower Entities”) are in default under the Settlement Agreement (*See attached Exhibit “A”*).<sup>1</sup> In particular, the Empower Entities have failed to comply with Paragraph 2(A) of the Settlement Agreement.

Pursuant to Paragraph 2(A), The Empower Entities were to pay \$100,000.00 (“Initial Settlement Payment”) directly to the Debtor or the Liquidating Trustee, as may be appropriate, within 120 days from the Effective Date. The “Effective Date” was April 19, 2019, the date of the order approving the Settlement Agreement. Therefore, the Initial Settlement Payment was due on August 17, 2019. However, the Empower Entities have failed to make the Initial Settlement Payment.

The Settlement Agreement provides, in the event the Empower Entities fail to pay the Initial Settlement Payment within 120 days of the Effective Date, the Debtor, the Liquidating Trustee, and/or the Committee, if still in existence may, in their sole discretion, have the option

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<sup>1</sup> This is the Liquidating Trustee’s Second Notice of Default regarding this Settlement Agreement. On June 25, 2019, The Liquidating Trustee provided Notice of Default regarding the Empower Entities failure to comply with Section 2(b) of the Settlement Agreement by not complying with the document request related to the agreed upon forensic analysis. The Liquidating Trust reserves all rights regarding this Initial Default and in no way waives any of its rights under the Settlement Agreement.

August 19, 2019

Page 2

to terminate this Mediation Agreement. Upon termination of the Settlement Agreement, the Release provided in Section D of the Settlement Agreement shall be null and void.

Based upon this default by the Empower Entities, they have materially breached the Settlement Agreement and, as a result, the Trust has elected to terminate the Settlement Agreement if the Empower Entities fail to cure their default within ten (10) business days of this Notice by tendering the Initial Settlement Payment.

Should you have any further questions regarding our decision, feel free to contact either Brian Rich or Gary Freedman.

Sincerely,

NELSON MULLINS BROAD  
AND CASSEL LLP  
*Counsel to the Liquidating Trustee*  
2 South Biscayne Blvd., 21<sup>st</sup> Floor  
Miami, FL 33131  
Telephone: (305) 373-9400

BERGER SINGERMAN LLP  
*Counsel to the Liquidating Trustee*  
313 North Monroe Street, Suite 301  
Tallahassee, FL 32301  
Tel. (850) 561-3010  
Fax (850) 561-3013

By: /s/ Gary Freedman

Frank Terzo  
frank.terzo@nelsonmullins.com  
Gary Freedman  
gary.freedman@nelsonmullins.com

By: /s/ Brian G Rich

Brian G Rich  
brich@bergersingerman.com  
Michael Niles  
mniles@bergersingerman.com

Enclosure

**EXHIBIT “G”**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION  
[www.flnb.uscourts.gov](http://www.flnb.uscourts.gov)

In re:

CAMPBELLTON-GRACEVILLE HOSPITAL  
CORPORATION,

Case No. 17-40185-KKS

Chapter 11

Debtor.

---

/

**ORDER GRANTING MOTION FOR ENTRY OF FINAL  
JUDGMENT AGAINST EMPOWER H.I.S. LLC AND JORGE A. PEREZ**

**THIS MATTER** came before the Court for hearing on \_\_\_\_\_ pursuant to the *Liquidating Trustee's Renewed Expedited Motion for Entry of Final Judgment Against Empower H.I.S., LLC and Jorge A. Perez and Incorporated Memorandum of Law* (Doc. No. \_\_) (the “**Motion**”). The Court having reviewed the Motion, the *Affidavit of Counsel in Support of the Motion for Entry of Default Final Judgment Against Empower H.I.S. LLC and Jorge A. Perez*, and the *Affidavit of Marta Alfonzo of Morrison, Brown, Argiz & Farra, LLC in Support of the Motion for Entry of Default Final Judgment Against Empower H.I.S., LLC and Jorge A. Perez* both attached to the Motion, along with the *Verification of Liquidating Trustee* below the Motion, and the Court file, good cause appearing, and being otherwise duly advised,

It is **ORDERED**:

1. The Motion is **GRANTED**.
2. The Court will enter a separate default final judgment in favor of Marshall Glade, Liquidating Trustee of the Campbellton-Graceville Hospital Liquidating Trust and jointly and severally against Empower H.I.S., LLC and Jorge A. Perez, individually, in the amount of **\$5,000,000.00**, plus interest at the maximum amount allowable by law.
3. The Court determines that the Liquidating Trustee is entitled to assert claims for restitution to the full extent of the Liquidating Trustee's damages against Empower H.I.S., LLC and Jorge A. Perez in the event of any forfeiture proceedings should any criminal restitution orders be entered against Empower H.I.S., LLC or Jorge Perez (the "**Restitution Claims**"). All rights of the Liquidating Trustee to assert the Restitution Claims are expressly reserved.

**DONE AND ORDERED** on \_\_\_\_\_.

---

Karen K. Specie  
United States Bankruptcy Judge

Submitted by:

Gary M. Freedman  
NELSON MULLINS BROAD AND CASSEL  
*Co-Counsel for Liquidating Trustee*  
2 South Biscayne Blvd., 21st Floor  
Miami, Florida 33131  
Telephone: (305) 373-9449  
Facsimile: (305) 373-9443  
gary.freedman@nelsonmullins.com

Copy furnished to:

Gary Freedman  
Nelson Mullins Broad and Cassel  
2 South Biscayne Blvd., 21st Floor  
Miami, Florida 33131

Marshall Glade, Liquidating Trustee  
of the Campbellton-Graceville Hospital Liquidating Trust  
3445 Peachtree Road  
Atlanta, GA 30326

Empower H.I.S. LLC  
Attention Registered Agent  
8724 SW 72nd Street #459  
Miami, Florida 33173

Empower H.I.S. LLC  
Attention Jorge Perez, President  
8770 SW 72nd Street # 459  
Miami Florida 33173

Jorge Perez  
8770 SW 72 Street, #459  
Miami, Florida 33173

**EXHIBIT “H”**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION  
[www.flnb.uscourts.gov](http://www.flnb.uscourts.gov)

In re:

CAMPBELLTON-GRACEVILLE HOSPITAL  
CORPORATION,

Case No. 17-40185-KKS

Chapter 11

Debtor.

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**FINAL JUDGMENT AGAINST  
EMPOWER H.I.S. LLC AND JORGE A. PEREZ**

**THIS MATTER** came before the Court pursuant to the *Order Granting Liquidating Trustee's Renewed Expedited Motion for Entry of Final Judgment Against Empower H.I.S., LLC and Jorge A. Perez and Incorporated Memorandum of Law* (Doc. No. \_\_) (the “**Motion**”). The Court having reviewed the Motion, the *Affidavit of Counsel in Support of the Motion for Entry of Default Final Judgment Against Empower H.I.S. LLC and Jorge A. Perez*, and the *Affidavit of Marta Alfonzo of Morrison, Brown, Argiz & Farra, LLC in Support of the Motion for Entry of Default Final Judgment Against Empower H.I.S., LLC and Jorge A. Perez* both attached to the Motion, the *Verification of Liquidating Trustee* below the Motion, and the Court file, and the Court having entered the *Order Granting Motion for Entry of Default Final Judgment against Empower H.I.S. LLC and Jorge A. Perez* (Doc. No. \_\_), good cause appearing, and being otherwise duly advised,

**It is ADJUDGED:**

1. Judgment is hereby entered in favor of Marshall Glade, Liquidating Trustee of the Campbellton-Graceville Hospital Liquidating Trust, who has an address of 3445 Peachtree Road, Atlanta, GA 30326, and against Empower H.I.S., LLC, its mailing address being 8770 SW 72 Street, #459, Miami, Florida 33173 and Jorge A. Perez, individually, his mailing address being 8770 SW 72 Street, #459, Miami, Florida 33173, jointly and severally, in the amount of **\$5,000,000.00**, for which let execution issue forthwith.

2. This final judgment shall bear interest at the maximum amount allowed by law.

**DONE AND ORDERED** on \_\_\_\_\_.

---

Karen K. Specie  
United States Bankruptcy Judge

Submitted by:

Gary M. Freedman  
NELSON MULLINS BROAD AND CASSEL  
*Co-Counsel for Liquidating Trustee*  
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Miami, Florida 33131

Marshall Glade, Liquidating Trustee  
of the Campbellton-Graceville Hospital Liquidating Trust  
3445 Peachtree Road  
Atlanta, GA 30326

Empower H.I.S. LLC  
Attention Registered Agent  
8724 SW 72nd Street #459  
Miami, Florida 33173

Empower H.I.S. LLC  
Attention Jorge Perez, President  
8770 SW 72nd Street # 459  
Miami Florida 33173

Jorge Perez  
8770 SW 72 Street, #459  
Miami, Florida 33173